

UNDER SEAL

FLORENCE T. NAKAKUNI #2286
United States Attorney
District of Hawaii

SEALED

BY ORDER OF THE COURT

cc: ROBERT J. MOOSSY, JR.
USA Principal Deputy Chief
DANIEL H. WEISS
Trial Attorney
U.S. Department of Justice
Civil Rights Division
601 D Street, NW
Washington, D.C. 20530
Telephone: (202) 616-6594
Facsimile: (202) 616-0372
Email: Daniel.Weiss@usdoj.gov

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DEC 05 2011

at 1 o'clock and 45 min. P.M.
SUE BEITIA, CLERK

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 10-00576 SOM
)	
Plaintiff,	)	EX PARTE AND UNDER SEAL FILING
	)	OF CLARIFICATION REGARDING
vs.	)	UNITED STATES' OPPOSITION TO
	)	DEFENDANT ORIAN'S MOTION TO
MORDECHAI YOSEF ORIAN, (01)	)	UNSEAL GRAND JURY TRANSCRIPTS
aka "MOTTY,"	)	AND MOTION FOR ORDER
PRANEE TUBCHUMPOL, (02)	)	AUTHORIZING DISCLOSURE
aka "SOM,"	)	PURSUANT TO FED. R. CRIM. P.
RATAWAN CHUNHARUTAI, (05)	)	6(e)(3)(i)
PODJANEE SINCHAI, (06))	
aka "POJANEE LOICHIRN,")	
aka "PHODCHANEE,")	
aka "JEH MAEW,")	
JOSEPH KNOLLER (08))	
)	
Defendants.)	
)	

EX PARTE AND UNDER SEAL FILING OF CLARIFICATION REGARDING UNITED STATES' OPPOSITION TO DEFENDANT ORIAN'S MOTION TO UNSEAL GRAND JURY TRANSCRIPTS AND MOTION FOR ORDER AUTHORIZING DISCLOSURE PURSUANT TO FED. R. CRIM. P. 6(e)(3)(i)

Comes now, the UNITED STATES OF AMERICA, through its undersigned counsel, and hereby files Ex Parte and Under Seal the following clarification regarding its Opposition to Defendant Orian's Motion to Unseal Grand Jury Transcripts and moves this Court for an order, pursuant to Fed. R. Crim. P. 6(e)(3)(i) for an order authorizing the unsealing of this filing.

1. The United States' Opposition to Defendant Orian's Motion to Unseal Grand Jury Transcripts stated that "The grand jury that returned the indictment in United States v. Sou, was not the same grand jury that returned the First Superseding Indictment in this case [United States v. Orian, et al.] and thus even if a misstatement was made to the Sou grand jury as defendant asserts, it had no effect on the charges in this case." U.S. Opposition at 11-12.

2. The United States' reference to "indictment" was to the original indictment in United States v. Sou, returned by Grand Jury 8-II on August 27, 2009.

3. Grand Jury 8-II was the grand jury that heard the testimony of Mattee Chowsanitphon on August 13, 2009; Defendant Orian asserts that the prosecutor misstated the law in a question posed to Chowsanitphon.

4. A different grand jury, Grand Jury 10-I, impaneled in May 2010, returned both the original indictment (on

September 1, 2010) and the First Superseding Indictment (on January 12, 2011) in the instant case.

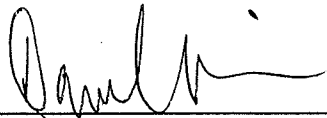
5. Grand Jury 10-I was the same grand jury that returned the First Superseding Indictment in United States v. Sou on October 27, 2010.

6. The government's ex parte submission of grand jury transcripts included all instructions of law that the prosecutor gave to Grand Jury 10-I regarding the original and First Superseding Indictment in the instant case, and the First Superseding Indictment in United States v. Sou.

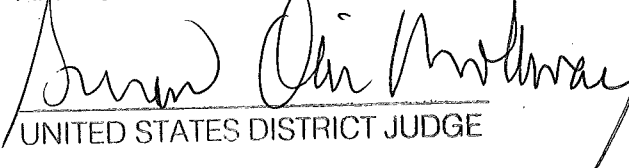
7. The government moves the Court to authorize the unsealing of filing pursuant to Fed. R. Crim. P. 6(e)(3)(i).

DATED: December 1, 2011, at Honolulu, Hawaii.

FLORENCE T. NAKAKUNI
United States Attorney
District of Hawaii

By 
ROBERT J. MOOSSY, JR.
Principal Deputy Chief
DANIEL H. WEISS
Trial Attorney

APPROVED AND SO ORDERED:


UNITED STATES DISTRICT JUDGE